

RIANA BUFFIN, ET AL.,

Plaintiffs,

VS.

**CITY AND COUNTY OF SAN FRANCISCO, ET  
AL.,**

## Defendants.

CASE NO. 15-cv-04959-YGR

**ORDER RE: PLAINTIFFS' MOTION TO  
STRIKE AND FOR CLARIFICATION  
REGARDING CBAA'S SEPARATELY FILED  
CROSS-MOTION FOR SUMMARY JUDGMENT**

Re: Dkt. No. 297

The Court is in receipt of plaintiffs Riana Buffin’s and Crystal Patterson’s Motion to Strike and for Clarification Regarding the California Bail Agents Association’s (“CBAA”) Separately Filed Cross-Motion for Summary Judgment (Dkt. No. 297), and CBAA’s opposition thereto (Dkt. No. 298). Having carefully considered the papers submitted, and for the reasons set forth below, the Court **GRANTS** plaintiffs’ motion.

This Court’s Standing Order in Civil Cases (“Standing Order”) provides, in relevant part, as follows:

Any cross-motion for summary judgment shall be contained within the opposition to any motion for summary judgment [and] shall contain twenty-five (25) pages or less . . . . The reply to a motion may contain up to fifteen (15) pages [and] shall include the opposition to any cross-motion . . . .

(Standing Order ¶ 9(e).) In accordance therewith, the Court instructed CBAA at the pretrial conference held on September 7, 2018 not to file a separate cross-motion simultaneously with plaintiffs' motion so as to avoid extra briefing. (Pretrial Conference Transcript ("Tr.") at 53:11–14, Dkt. No. 280.)

Despite the Court's Standing Order and instruction at the pretrial conference, CBAA filed two briefs on October 19, 2018: (i) a 24-page opposition to plaintiffs' motion for summary judgment (Dkt. No. 294); and (ii) a 25-page cross-motion for summary judgment (Dkt. No. 295).

1 In justification thereof, CBAA points to the prior round of cross-motions for summary judgment in  
2 this case, in which plaintiffs and CBAA each filed their own 25-page motion, 25-page opposition,  
3 and 15-page reply, totaling six briefs. However, the *prior* summary judgment motion practice in  
4 this case does not excuse *present* nonconformance with the Court's Standing Order.<sup>1</sup>

5 Accordingly, CBAA's opposition to plaintiffs' motion for summary judgment and its  
6 cross-motion for summary judgment are **STRICKEN**. CBAA is hereby Ordered to file a *single*  
7 brief, of no more than twenty-five (25) pages, which contains *both* their opposition and cross-  
8 motion, pursuant to ¶ 9(e) of the Standing Order. Such brief must be filed by no later than  
9 **Thursday, November 1, 2018**. Plaintiffs will have until **Tuesday, November 20, 2018** to file  
10 their single fifteen (15)-page brief consisting of both their reply in support of their motion for  
11 summary judgment and their opposition to CBAA's cross-motion. CBAA's fifteen (15)-page  
12 reply in support of its cross-motion shall be due on **Tuesday, December 4, 2018**. The briefing  
13 schedule regarding plaintiffs' motion to revoke CBAA's intervenor status (Dkt. No. 287) shall  
14 remain unchanged. However, the hearing on *all* motions is **CONTINUED to Tuesday, January 8,**  
15 **2018 at 2:00 p.m.** in the Federal Courthouse, 1301 Clay Street, Oakland, California in Courtroom  
16 1.

17 As for plaintiffs' request for clarification regarding arguments previously ruled on by the  
18 Court, plaintiffs are incorrect that CBAA was required to seek leave to file a motion for  
19 reconsideration pertaining to the appropriate standard of review in this case. Indeed, the Court  
20 explained at the pretrial conference with respect to the recent Fifth and Eleventh Circuit decisions  
21 in *ODonnell and Walker*: "It's not binding authority. . . . So it doesn't fall within the  
22 administrative motion because there is no change in the law in the Ninth Circuit. But certainly it  
23 can be raised as additional authority in opposition – or your – your own cross-motion." (See Tr.  
24 at 54:24–55:5.) While the Court is not inclined to revisit the governing standard of review absent  
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26 <sup>1</sup> CBAA correctly notes that plaintiffs were required to file either a stipulation pursuant to  
27 Civil Local Rule ("L.R.") 7-12 or a declaration explaining why a stipulation could not be obtained.  
28 L.R. 7-11(a). Plaintiffs' counsel should know better. However, given the high likelihood that  
CBAA would have refused to strike one of its two briefs voluntarily, the Court declines to strike  
plaintiffs' motion. Plaintiffs' counsel is advised that in the future, the Court may strike plaintiffs'  
filings for failure to comply with the Local Rules.

1 binding authority on the issue, the Court leaves to CBAA the choice to use its limited pages as it  
2 sees fit.

3 This Order terminates Docket Number 297.

4 **IT IS SO ORDERED.**

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6 Dated: October 26, 2018

  
7 YVONNE GONZALEZ ROGERS  
8 UNITED STATES DISTRICT COURT JUDGE

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